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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/712,602 | 11/12/2003 | Jack Martin York | | 9004 |

7590 11/30/2004
Jack M. York
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EXAMINER

KRECK, JOHN J

ART UNIT PAPER NUMBER

3673

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,602

Applicant(s)

YORK, JACK MARTIN

Examiner

John Kreck

Art Unit

3673



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Response to Amendment

1. Applicant's proposed amendments filed on 8/18/04 are noted. These amendments would be entered if submitted in proper form; or alternatively, the corrections can be made by an examiner's amendment.
2. Applicant is reminded that all submissions to the patent office must have a signature.
3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: "Apparatus and method for removing floor tile".

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the means for removing grout and cementitious material must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are unclear because they claim "apparatus and method" in the same claim. It is not clear whether each claim is intended to cover an apparatus or a method.

Allowable Subject Matter

The following claims drafted by the examiner and considered to distinguish patentably over the art of record in this application, are presented to applicant for consideration:

1. ~~An apparatus and~~ A method for removing a portion of a grouted tile floor where said portion has separated from the foundation comprising the steps of:
 - a. ~~a means for~~ removing grout and cementitious material around all sides of said tile without damaging said tile;
 - b. securing an apparatus to said tile, the apparatus comprising a rigid material forming a base plate of a predetermined size; c. a plurality of clamps that secure said base plate to said tile that fit into evacuated grout spaces around said tile; ~~d. a cleat~~
-

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attached to said base plate that fits into another evacuated grout space perpendicular to said clamps, ~~and~~ e. an impact area on said cleat and base plate for a hammering force to be applied on said impact area used to drive said base plate and consequently said tile forward in the same direction of the impact force;

c. impacting the impact area to drive the tile forward.

2. The method of claim 1, of wherein removing said grout around said tile is done using a circular abrasive blade saw to cut out said grout or a drill to bore multiple holes in a series in said grout.

3. The method ~~apparatus~~ of claim 1 wherein said plurality of clamps are two opposing clamps that sandwich said tile.

4. The method ~~apparatus~~ of claim 3 4 wherein said clamps which sandwich said tile use a nut and bolt system to control the pressure exerted on said tile by said clamps.

5. The method ~~apparatus~~ of claim 1 wherein said clamps have their lateral movement controlled by guide rods and a guide tube.

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6. The method apparatus of claim 5 4 wherein said clamps use a bolt and nut system to adjust the width of said clamps, the nut is attached to said base plate parallel to and above said guide tube.

7. The method apparatus of claim 1 wherein said clamps use a nut and bolt system to adjust the width of said clamps, and the bolts can be interchanged.

8. The method apparatus of claim 1 wherein said base plate is secured to said tile on the side opposite said impact area through a tensioning means ~~such as a spring~~.

9. An apparatus ~~and method~~ for removing a grouted floor tile where said tile has separated from the foundation comprising:

a. a means for removing grout and cementing material around all sides of said tile without damaging said tile;

b. a rigid material forming a base plate of a predetermined size that is adjustable in length;

c. a plurality of clamps that secure the base plate to said tile that are dimensioned to fit into evacuated grout spaces around said tile to grip side edges of the tile;

d. a cleat attached to said base plate that ~~fits~~ is dimensioned to fit into another evacuated grout space perpendicular to said clamps to grip another edge of the tile;

and,

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e. an impact area on said base plate for a hammering force to be ~~applied on said impact area-used to drive said base plate and consequently said tile forward in the same direction of the impact force.~~

10. The ~~method~~ apparatus of claim 9; wherein the means for removing said grout around said tile is ~~done using a circular abrasive blade saw to cut out said grout or a drill to bore multiple holes in a series in said grout.~~

11. The apparatus of claim 9 wherein said base plate is comprised of a front half and a back half of a the base plate to be connected by an adjustment plate and secured by a nut and bolt system.

12. The apparatus of claim 9 11 wherein said adjustable base plate consists of an adjustment plate of a similar material as said base plate having a slot so the bolts of said front half of said base plate and said back half of said base plate can freely move until a plurality of adjustment nuts are tightened.

13. The apparatus of claim 9 wherein said plurality of clamps are two opposing clamps that sandwich said tile.

14. The apparatus of claim 9 13 wherein said clamps which sandwich said tile use a nut and bolt system to control the pressure exerted on said tile by said clamps.

15. The apparatus of claim 9 wherein said clamps have their lateral movement controlled by guide rods and a guide tube.

16. The apparatus of claim 9 15 wherein said clamps use a bolt and nut system to adjust the width of said clamps, the nut is attached to said base plate parallel to and above said guide tube.

17. The apparatus of claim 9 wherein said clamps use a nut and bolt system to adjust the width of said clamps, the bolt head can face inside or outside of said base plate.

18. The apparatus of claim 9 wherein said base plate is secured to said tile on the side opposite of said impact area through a tensioning means ~~such as a spring~~.

Reasons for allowance:

The following is a statement of reasons for the indication of allowable subject matter:

The prior art fails to disclose the method of removing tile including removing grout and cementitious material securing the apparatus to the tile and impacting the apparatus as called for in claim 1.

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The prior art fails to disclose or fairly suggest an apparatus for removing floor tile including a base plate with clamps dimensioned to fit the tile and an impact area in combination with means for removing grout as called for in claim 9.

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reiser, Urban, and Duwe teach similar apparatus.

Applicant is advised to use a certificate of mailing or transmission with all further correspondence, and it is suggested that applicant make a copy before mailing.

The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

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Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) _____ - _____ on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is (703)308-2725. The examiner can normally be reached on M-F 5:30 am - 2:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703)308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John Kreck
Examiner
Art Unit 3673

**JOHN KRECK
PRIMARY EXAMINER**

JJK
